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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,441

12/05/2003

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EXAMINER

KRASNIC, BERNARD

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/728,441	<b>Applicant(s)</b> LEVIN ET AL.	
	<b>Examiner</b> Bernard Krasnic	<b>Art Unit</b> 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12-05-2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12-05-2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "10" in Fig. 1 has been used to designate both the color selector device of Fig. 1 and the color selector device of Fig. 2. Reference character "10" in Fig. 2 is suggested to be -- 10' --. Similarly, reference character "18" in Fig. 2 is suggested to be -- 18' --.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: reference characters "26" in Fig. 1, "28" in Fig. 1, "12" " in Fig. 2, "14" " in Fig. 2, "16" " in Fig. 2, "18" " in Fig. 2, and "138" in Fig. 5.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

Art Unit: 2624

notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because the disclosure using the phrase "of the present invention". "utilizing the system of the present invention label" in line 8 should be -- utilizing the system label --.

Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

5. Claims 2, 13, and 21 are objected to because of the following informalities:

Claims 2, 13, and 21, line 2 respectively: "from the list" should be -- from a list --.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-9, and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Tracy et al (US 6,139,325).

Re Claim 1: Tracy discloses a method for creating a color matching and coordinating reference system / device for determining color combinations for use by manufacturers and consumers of goods / people involved in crafts (see col. 1, lines 31-43), comprising the steps of assigning a unique identification code / noting down the coordinating combinations for each of a plurality of colors (see col. 1, lines 31-43, col. 4, lines 58-65, col. 5, lines 41-46, abstract, lines 15-16, the color coordinating combinations of the color selector device are assigned or noted and these coordinates relate to the color selection group, color value number, and color selection indicia), the identification code / noted coordinate combination comprising color family indicia / color selection group and color value indicia / color value number (see col. 1, lines 31-43, col. 4, lines 58-65, col. 5, lines 41-46, abstract, lines 15-16, the color coordinating combinations of the color selector device are assigned or noted and these coordinates relate to the color selection group, color value number, and color selection indicia); and associating with each good / materials the identification code / noted coordinate combination for each color used

Art Unit: 2624

therewith (see col. 1, lines 31-43, col. 4, lines 58-65, col. 5, lines 41-46, abstract, lines 15-16).

Re Claim 2: Tracy further discloses the color family indicia / color selection group is selected from the list consisting of red, red/orange, orange, yellow/orange, yellow, yellow/green, green, blue/green, blue, blue/violet, violet, and red/violet (see col. 3, lines 50-57).

Re Claim 3: Tracy further discloses the color value indicia / color value number is a number (see col. 3, lines 65-68, col. 4, lines 10-19, the color value number representing lightness or darkness ranges from values 1 to 7).

Re Claim 4: Tracy further discloses the color value indicia / color value number for each color of the plurality of colors is between 0 and 8 / from values 1 to 7 (see col. 3, lines 65-68, col. 4, lines 10-19, the color value number representing lightness or darkness ranges from 1 to 7 which is between 0 and 8).

Re Claim 5: Tracy further discloses the step of using means / color selector device for determining color combinations to determine coordinating color identification codes / noted coordinate combination (see Fig. 1, col. 3, lines 38-45, col. 1, lines 31-43, col. 4, lines 58-65, col. 5, lines 41-46, abstract, lines 15-16, the color coordinating combinations of the color selector device are assigned or noted).

Art Unit: 2624

Re Claim 6: Tracy further discloses the determining means / color selector device for determining color combinations comprises a color selector device / color selector device (see Fig. 1, col. 3, lines 38-45, col. 1, lines 31-43, col. 4, lines 58-65, col. 5, lines 41-46, abstract, lines 15-16, the color coordinating combinations of the color selector device are assigned or noted).

Re Claim 7: Tracy further discloses of providing at least one of a true color selector device / color selector device representing true color, a tonal color selector device, or a neutral color selector device (see col. 3, lines 38-45 and lines 65-68, col. 4, line 1).

Re Claim 8: Tracy further discloses the identification code / noted coordinate combination for each of the plurality of colors further comprises a color selector device indicia / color selection indicia (see col. 4, lines 27-42).

Re Claim 9: Tracy further discloses the step of associating the unique identification code / noted coordinate combination for each color displayed / color combination on the color selector device (see col. 1, lines 31-43, col. 4, lines 58-65, col. 5, lines 41-46, abstract, lines 15-16, the color coordinating combinations of the color selector device are assigned or noted and each of these coordinates relate to a specific color selection group, color value number, and color selection indicia).

Art Unit: 2624

Re Claim 12: Tracy discloses a method for creating a color matching and coordinating reference system / device for determining color combinations for use by manufacturers and consumers of goods / people involved in crafts (see col. 1, lines 31-43), comprising the steps of assigning a unique identification code / noting down the coordinating combinations for each of a plurality of colors (see col. 1, lines 31-43, col. 4, lines 58-65, col. 5, lines 41-46, abstract, lines 15-16, the color coordinating combinations of the color selector device are assigned or noted and these coordinates relate to the color selection group, color value number, and color selection indicia), the identification code / noted coordinate combination comprising color family indicia / color selection group, color value indicia / color value number, and color selector device indicia / color selector indicia (see col. 1, lines 31-43, col. 4, lines 58-65, col. 5, lines 41-46, abstract, lines 15-16, col. 4, lines 27-42, the color coordinating combinations of the color selector device are assigned or noted and these coordinates relate to the color selection group, color value number, and color selection indicia); associating with each good / materials the identification code / noted coordinate combination for each color used therewith (see col. 1, lines 31-43, col. 4, lines 58-65, col. 5, lines 41-46, abstract, lines 15-16); and determining coordinating color identification codes using a color selector device / color selector device (see Fig. 1, col. 3, lines 38-45, col. 1, lines 31-43, col. 4, lines 58-65, col. 5, lines 41-46, abstract, lines 15-16, the color coordinating combinations of the color selector device are assigned or noted).

As to claim 13, the discussions are addressed with respect to claim 2.



Art Unit: 2624

As to claim 14, the discussions are addressed with respect to claim 3.

As to claim 15, the discussions are addressed with respect to claim 4.

As to claim 16, the discussions are addressed with respect to claim 7.

As to claim 17, the discussions are addressed with respect to claim 9.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10-11, and 18-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy et al in view of Adkins et al (US 4,399,353).

However, as recited in claim 10, Tracy fails to disclose or fairly suggest assigning a unique color name to each identification code.

Adkins discloses assigning a unique color name / RGB values to each identification code (see col. 1, lines 1-25, col. 2, lines 16-19, using the color wheel, a determination for example by an artist may be made for figuring the RGB values which make up the composition of a given materials color and most RGB values have specific names as described in the "Learning Web Design: A Beginner's Guide to HTML, Graphics, and Beyond" by Jennifer Niederst [Chapter 13, 2001, O'Reilly Media Inc, <http://www.learningwebdesign.com/colornames.html>], there is a list of different RGB values and the names associated with the specific RGB values).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tracy's method by using Adkins's teachings by including to Tracy's color selection indicia or to Tracy's color selector device the legend strips which identify the percentage of color found in the aligned spaces in order to provide the user the ability to identify the exact RGB values which make up the specific color of the material (see Adkins, col. 1, lines 1-25).

Re Claim 11: Adkins further discloses cross-referencing matching and coordinating colors using a table listing at least a portion of the plurality of colors according to each color's identification code and assigned color name (see col. 1, lines 1-25, col. 2, lines 16-19, using the color wheel, a determination for example by an artist may be made for figuring the RGB values which make up the composition of a given materials color and most RGB values have specific names as described in the "Learning Web Design: A Beginner's Guide to HTML, Graphics, and Beyond" by Jennifer Niederst [Chapter 13, 2001, O'Reilly Media Inc, <http://www.learningwebdesign.com/colomames.html>], there is a list or table of different RGB values and the name associated with the specific RGB values).

As to claim 18, the discussions are addressed with respect to claim 10.

As to claim 19, the discussions are addressed with respect to claim 11.

As to claim 20, the discussions are addressed with respect to claims 9, 10, and

12.

As to claim 21, the discussions are addressed with respect to claim 2.

As to claim 22, the discussions are addressed with respect to claim 7.

As to claim 23, the discussions are addressed with respect to claim 11.

As to claim 24, the discussions are addressed with respect to claim 4.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stoddard discloses a calculator for harmonizing colors; Axelrod discloses an artists' color display system; Shook et al discloses a color selecting apparatus; Tanner discloses a device for quickly finding harmonious color combinations; Impastato discloses a color coordinating implement; Scheuer discloses a color matching aid device; Spears discloses a color harmonizing chart; Walker discloses a changeable color exhibiting device;

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard Krasnic whose telephone number is (571) 270-1357. The examiner can normally be reached on Mon-Thur 8:00am-4:00pm and every other Friday 8:00am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bernard Krasnic  
April 24, 2007



JINGGE WU  
SUPERVISORY PATENT EXAMINER